

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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|---------------------------|---|-------------|
| CEDRIC DEWIN JENKINS, |) | |
| |) | |
| Petitioner, |) | |
| |) | 1:16CV635 |
| v. |) | 1:13CR487-2 |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 15, 2018, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. None of these objections has merit and neither discovery, nor an evidentiary hearing, nor the appointment of counsel are warranted here. Beyond this, although it is unclear, some of these objections may be efforts to raise new claims. However, any new claims would need to be raised by way of a motion to amend Petitioner's initial § 2255 motion. And, in any event, any such motion to amend would be denied as futile given that the potential claims in question are either time-barred by the relevant statute of limitations, without merit, or both. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Petitioner's motion to vacate, set aside or correct sentence [Doc. #221] is **DENIED**, and that this action is dismissed with prejudice. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 24th day of June, 2019.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge